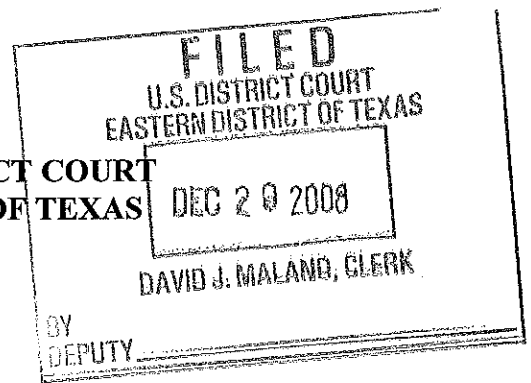


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**



UNITED STATES OF AMERICA

§
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§
§

vs.

CODY ALLEN BOGAN

Case No. 4:06cr152
(Judge Schell)

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on December 16, 2008 to determine whether the Defendant violated his supervised release. The Defendant was represented by Mac Morris. The Government was represented by Stevan Buys.

On March 16, 2004, the Defendant was sentenced by the Honorable Ronald A. White, United States District Judge, to 3 years probation for the offense of Transportation of Stolen Motor Vehicle. On March 16, 2006, Defendant began serving his probation in the Eastern District of Texas. On June 5, 2006, jurisdiction in this case was transferred to the Eastern District of Texas. On May 2, 2007, Defendant's probation was revoked for violations related to committing the offenses Theft Over \$1500 and Under \$20,000 and Possession of a Controlled Substance, submitting a urine specimen which tested positive for methamphetamine, and failing to report being arrested to the U. S. Probation office within 72 hours. U. S. District Judge Richard A. Schell sentenced the Defendant to 12 months imprisonment to be followed by a 24-month term of supervised release. On April 5, 2008, Defendant was released from prison and began serving his term of supervised release.

On September 23, 2008, the U. S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 13). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not unlawfully possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (4) Defendant shall refrain from any unlawful use of a controlled substance. The Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court; and (5) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U. S. Probation Office, until such time as the Defendant is released from the program by the probation officer.

The petition alleges that Defendant committed the following violations: (1) The Defendant was arrested on August 22, 2008, by Denton Police Department, Denton, Texas, for Possession of Controlled Substance and Theft > \$20k < \$100k. (2) On August 15, 2008, the Defendant submitted a urine specimen which tested positive for methamphetamine. He admitted verbally and in writing to said drug use; and (3) Defendant failed to report for drug testing at Sharp Focus Centers on May 23, July 9, 19, 29, and August 12, 18, 2008.

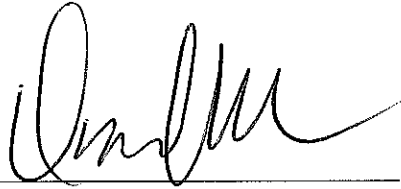
Prior to the Government putting on its case, the Defendant entered a plea of true to all of the alleged violations. At the hearing, the Court found that the Defendant has violated the terms of his supervised release, and the Court recommended that Defendant's supervised release be revoked

based on those violations. Defendant waived allocution before a district judge.

RECOMMENDATION

Having heard the argument of counsel, the Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months, to be served consecutively to any other term of imprisonment the Defendant is serving, with no term of supervised release to follow. The Court finds that \$192.50 restitution is due and payable immediately. The Court further recommends that Defendant's term of imprisonment be carried out in an appropriate Ft. Worth facility.

SIGNED this 23 day of December, 2008.

A handwritten signature in black ink, appearing to read 'Don D. Bush', written over a horizontal line.

DON D. BUSH
UNITED STATES MAGISTRATE JUDGE